

EXHIBIT 13

In The Matter Of:
Syngenta Crop Protection, LLC vs.
Willowood, LLC, et al.

Wu Xiaolong
Vol. 1
August 31, 2016
CONFIDENTIAL -- ATTORNEYS' EYES ONLY

Gore Brothers Reporting & Videoconferencing
20 South Charles Street, Suite 901
Baltimore, MD 21201
410-837-3027
www.gorebrothers.com



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

SYNGENTA CROP PROTECTION, LLC

Plaintiff

vs.

CIVIL ACTION NO:

WILLOWOOD, LLC, et al.

1:15-CV-274

Defendants

_____/

The Videotaped deposition of WU XIAOLONG,
as translated by Sze Wang So, Interpreter, was held on
Wednesday, August 31, 2016, commencing at 9:34 a.m.,
at the offices of Goodwin Procter, Suite 2801, One
Exchange Square, 8 Connaught Place, Central, Hong Kong,
before Jenny Buck, Accredited Real-time Reporter.

REPORTED BY: Jenny Buck

1 azoxystrobin for Willowood Limited?

2 MR. SANTHANAM: Objection. Leading.

3 A. Yes.

4 BY MR. NEUMAN:

5 Q. And what role is that? What has -- what
6 has Guoshang done in connection with the manufacture of
7 azoxystrobin for Willowood?

8 A. We bought intermediates from them.

9 Q. What intermediate have you bought from
10 Guoshang for the manufacture of azoxystrobin?

11 A. It was the etherification that was
12 mentioned in this material.

13 Q. And how did you decide to use Guoshang as
14 a supplier of that intermediate product for the
15 manufacture of azoxystrobin?

16 A. It was mainly because of quality, cost --
17 no, price.

18 (Reporter clarification.)

19 Q. Do you know whether Guoshang sells that
20 intermediate product to others in the market?

21 A. Yes.

22 Q. And are there other suppliers of that
23 intermediate product?

24 A. Yes.

25 Q. When the purchase of that intermediate

Gore Brothers Reporting & Videoconferencing
410 837 3027 - Worldwide - www.gorebrothers.com

1 litigation between Syngenta and Willowood?

2 A. It should be last year, the second half of
3 last year, after October last year.

4 Q. How did you find out about the litigation
5 between Syngenta and Willowood?

6 A. It was Mr. Shen who told me about it.

7 Q. Is it fair to say that Mr. Shen informed
8 you of the litigation sometime in October of 2015?

9 A. Yes, he -- yes, it is.

10 Q. Now, I understand from Willowood's counsel
11 here at the table today that your father has been ill;
12 is that right?

13 A. Yes.

14 Q. I'm sorry to hear about that and I will try
15 to keep this very brief. Can you explain what
16 situation your father has been undergoing?

17 A. He's stabilized.

18 Q. Can you explain what situation he had been
19 undergoing before he -- before he stabilized?

20 A. (Chinese spoken).

21 THE INTERPRETER: Let me check.

22 A. He's got disease on his gallbladder.

23 BY MR. SANTHANAM:

24 Q. And I understand that he might have had
25 surgery; is that right?

1 A. Yes.

2 Q. When was that surgery?

3 A. It was last month. So today is 31st, am
4 I right? So it was the end of last month, so one
5 month.

6 Q. So your father had surgery at the end of
7 July of 2016?

8 A. Yes.

9 Q. Is it fair to say that this has been
10 a difficult time for you?

11 A. Well, it is -- it should be better because
12 he is already stabilized.

13 Q. And you are here testifying today, you
14 know, in light of all the -- what's happened to your
15 father; is that right?

16 MR. NEUMAN: Objection. Form.

17 THE INTERPRETER: "In ..."?

18 BY MR. SANTHANAM:

19 Q. You are here testifying today despite all
20 that's happened to your father?

21 A. Yes.

22 Q. In fact, the situation with your father was
23 so difficult that you did not want to come to
24 Hong Kong; correct?

25 MR. NEUMAN: Objection. Form. Foundation.

1 A. Well, at that time, I was asked to come on
2 7 or 8 August, but at that time I could not leave, and
3 how he is stabilized and I am already back to my usual
4 work, so I can leave now.

5 BY MR. SANTHANAM:

6 Q. Mr. Wu, when were you first asked by
7 Willowood to testify at a deposition?

8 A. It was in the second half of July and they
9 asked me to come to Hong Kong in early August,
10 according to their original plan.

11 Q. Have you been deposed before?

12 A. No.

13 Q. Before today, have you met with any of
14 Willowood's lawyers?

15 A. Before today? Yesterday I met them.

16 Q. So you met with Mr. Neuman and Mr. Davis,
17 who are Willowood's lawyers, yesterday; is that right?

18 A. Yes.

19 Q. How long did you meet with Mr. Neuman and
20 Mr. Davis yesterday?

21 A. A little bit more than half a day.

22 Q. And did Mr. Neuman and Mr. Davis reach out
23 to you to set up this meeting before yesterday?

24 A. Not by them. Mr. Shen told me.

25 Q. You -- or Mr. Shen reached out to you, to

1 (Discussion off the record.)

2 BY MR. SANTHANAM:

3 Q. Mr. Wu, if you could read either the
4 English version or the Chinese version. I'd like to
5 ask you some questions about this letter.

6 A. Do I read the whole letter?

7 Q. Just to yourself.

8 A. "Dear Mr. Wu:

9 I represent" -- I don't know how to read
10 it -- "in the above-referenced litigation against" --
11 I think this is Willowood, I guess -- "the Willowood.
12 In connection with this litigation, I understand you
13 have spoken with Willowood and its counsel and have
14 agreed to sit for an oral deposition in Hong Kong on
15 August 31, 2016. To the extent that you plan to speak
16 or meet with" -- I think this is Willowood -- "or its
17 counsel in preparation for [this] deposition ...
18 requests that you identify the time and place of the
19 meeting or the details of any telephone conference so
20 that ... counsel may participate."

21 Q. Mr. Wu, were you aware that Syngenta's
22 counsel had asked to be present and be able to
23 participate in any meeting you had with Willowood's
24 lawyers?

25 A. No, I don't know.

1 Q. Did Willowood's lawyers tell you that we
2 had made a similar request to them to be present in any
3 meeting they had with you?

4 A. I don't know.

5 MR. NEUMAN: Objection. Foundation.

6 MR. SANTHANAM: Can you repeat the answer?

7 THE INTERPRETER: "I don't know."

8 BY MR. SANTHANAM:

9 Q. They didn't tell you; is that right?

10 MR. NEUMAN: Same objection.

11 A. No.

12 BY MR. SANTHANAM:

13 Q. You met with Mr. Neuman and Mr. Davis for
14 about a half a day yesterday, preparing to -- for your
15 testimony today; is that right?

16 MR. NEUMAN: Objection. Form. Foundation.

17 A. They asked me questions about my business,
18 my cooperation with Willowood and my factory, the
19 cooperation between my factory and Willowood.

20 (Reporter clarification.)

21 BY MR. SANTHANAM:

22 Q. You also discussed yesterday with
23 Willowood's lawyers Exhibit 1; is that right?

24 A. Yes.

25 Q. You went over what Exhibit 1 supposedly

1 discloses?

2 MR. NEUMAN: Objection. Form. Foundation.

3 THE COURT REPORTER: Just a second.

4 (Discussion off the record.)

5 A. Yes.

6 BY MR. SANTHANAM:

7 Q. They, Willowood's lawyers, discussed with
8 you the condensation and etherification steps; is that
9 right?

10 A. Yes.

11 Q. Willowood's lawyers went over -- withdrawn.
12 Willowood's lawyers discussed the
13 Syngenta-Willowood litigation with you yesterday; is
14 that right?

15 MR. NEUMAN: Objection. Foundation.

16 A. No.

17 BY MR. SANTHANAM:

18 Q. Willowood's lawyers went over the locations
19 at which various steps in the manufacturing process
20 were supposedly performed; is that right?

21 MR. NEUMAN: Objection. Form. Foundation.

22 A. They just want to verify whether this
23 document is true or not.

24 BY MR. SANTHANAM:

25 Q. They asked you questions about where

1 various steps of the manufacturing process were being
2 carried out; is that right?

3 MR. NEUMAN: Objection. Form. Foundation.

4 A. Yes.

5 BY MR. SANTHANAM:

6 Q. And they didn't inform you that Syngenta's
7 counsel wanted to be present for that discussion;
8 correct?

9 A. No.

10 Q. Now, before yesterday, had you spoken with
11 Mr. Neuman or Mr. Davis?

12 A. No.

13 Q. Before yesterday, have you spoken with
14 Mr. Steven Tiller, also with the firm of Whiteford
15 Taylor Preston?

16 A. Which Steven? I don't know.

17 Q. So you're not aware of an attorney
18 representing Willowood by the name of Steven Tiller?

19 A. No, I don't know.

20 Q. Before yesterday, have you spoken with
21 another attorney who had represented Willowood by the
22 name of Christopher Hayden?

23 A. No.

24 Q. Where was your meeting yesterday with
25 Mr. Davis and Mr. Neuman?

1 A. No.

2 Q. Have you spoken with Mr. Shen this month
3 regarding any of the testimony that you gave today?

4 MR. NEUMAN: Objection. Form.

5 A. He just informed me that I would come to
6 Hong Kong to meet lawyers, and he didn't tell me that
7 the meetings will be like this.

8 BY MR. SANTHANAM:

9 Q. And Mr. Shen told you that you'd be meeting
10 in Hong Kong, and you agreed to come here; is that
11 right?

12 A. Yes.

13 MR. SANTHANAM: I'm going to hand you
14 a document that I'm marking as Exhibit 4.

15 (Exhibit 4 marked for identification.)

16 BY MR. SANTHANAM:

17 Q. For the record, Exhibit 4 is a letter dated
18 July 28, 2016, to Mr. Wu, from an attorney by the name
19 of Steven Tiller of Whiteford Taylor Preston,
20 representing Willowood.

21 Mr. Wu, this letter that I've handed to you
22 as Exhibit 4, there's two versions of it. The first
23 two pages are in English and the second two pages are
24 in Chinese. Would you please read whichever version
25 you're comfortable reading?

1 MR. NEUMAN: Do you want that out loud?

2 BY MR. SANTHANAM:

3 Q. To yourself.

4 A. Done.

5 Q. Mr. Wu, you understand that the letter from
6 Mr. Tiller to you indicates that Syngenta had requested
7 various categories of documents; correct?

8 A. Yes.

9 Q. And July 28, 2016 was the first time anyone
10 at Willowood had informed you that Syngenta had
11 requested these documents; is that right?

12 MR. NEUMAN: Objection. Foundation.
13 Mischaracterizes the exhibit.

14 A. Nobody said it was Syngenta and I don't
15 know.

16 BY MR. SANTHANAM:

17 Q. Did someone associated with Willowood tell
18 you that Syngenta was asking for documents related to
19 the manufacture of azoxystrobin before July 28, 2016?

20 A. No.

21 Q. Did anyone associated with Willowood tell
22 you that Syngenta was requesting documents,
23 communications between Willowood and Tai He, before
24 July 28, 2016?

25 A. No.

1 Q. And that same answer -- you would give the
2 same answer for each of the other categories of
3 documents that are listed in Mr. Tiller's July 28, 2016
4 letter; is that right?

5 MR. NEUMAN: Objection. Form. Foundation.

6 A. Your question is ...? Can you please
7 paraphrase -- rephrase your question?

8 BY MR. SANTHANAM:

9 Q. My question is: With respect to each of
10 the categories of documents that are listed in
11 Mr. Tiller's July 28, 2016 letter, no one associated
12 with Willowood had informed you that Syngenta was
13 asking for these documents before July 28, 2016;
14 correct?

15 MR. NEUMAN: Objection. Foundation.

16 A. Who is Steven Tiller?

17 BY MR. SANTHANAM:

18 Q. I will represent to you that Steven Tiller
19 is one of the lawyers representing Willowood in this
20 litigation. He is of the same law firm that Mr. Neuman
21 and Mr. Davis are part of.

22 A. I've got it.

23 Q. So my question is, for each of the
24 categories of documents that are listed in Exhibit 4,
25 no one associated with Willowood informed you that

1 Syngenta had requested those categories of documents
2 before July 28, 2016; correct?

3 MR. NEUMAN: Foundation. Objection.

4 A. You are right.

5 BY MR. SANTHANAM:

6 Q. Before today, did -- withdrawn.

7 Has Willowood ever provided you any letters
8 from its lawyers in connection with this litigation?

9 MR. NEUMAN: Objection. Form.

10 A. No, but we received this letter later.

11 BY MR. SANTHANAM:

12 Q. You received the letter that is in
13 Exhibit 4 before today?

14 A. Yes.

15 Q. Did you or anyone at Tai He attempt to
16 search for and collect the documents that are listed in
17 Exhibit 4?

18 A. They just told me that there was a letter,
19 and I didn't read the letter very carefully and they
20 didn't told me about it -- they didn't talk about
21 this -- they didn't talk about this letter later.

22 Q. So no one at Willowood, or associated with
23 Willowood, explained to you the various categories of
24 documents that were being requested?

25 A. Right.

1 Q. Mr. Wu, I understand that you are the
2 director or the chairman of the board for Tai He.
3 That's what you testified; right?

4 A. Yes.

5 Q. Tai He also calls itself sometimes as
6 "Zenith"; is that right?

7 A. Zenith? No.

8 Q. So you've never heard the name Zenith being
9 used in reference to Tai He?

10 A. You are right.

11 Q. Do you know why Willowood might refer to
12 Tai He as "Zenith"?

13 A. No, I don't know.

14 Q. Now, you mention that Willowood is not
15 Tai He's only customer; is that right?

16 A. Can you repeat the question?

17 Q. Willowood is not Tai He's only customer;
18 correct?

19 A. Correct.

20 Q. And do you use email at Tai He to
21 communicate with customers?

22 A. No.

23 Q. Do you use letters to communicate with your
24 customers?

25 A. No.

1 MR. NEUMAN: Thank you.

2 Objection. Foundation. It's in English.

3 MR. SANTHANAM: And I'm going to caution
4 Mr. Neuman to stop coaching the witness.

5 MR. NEUMAN: I made my objection in
6 English. I would caution you to watch your cautions.

7 MR. SANTHANAM: Can you read back the last
8 Q&A?

9 (Record read.)

10 BY MR. SANTHANAM:

11 Q. Mr. Wu, is it your understanding that the
12 companies from whom you purchase the etherification
13 intermediate make that intermediate according to the
14 process that's set forth in Exhibit 3?

15 MR. NEUMAN: Same objection.

16 A. For this, I'm not sure.

17 BY MR. SANTHANAM:

18 Q. Mr. Wu, are you aware of any use for the
19 etherification intermediate other than to make
20 azoxystrobin?

21 THE INTERPRETER: Excuse me, can you
22 please ...

23 BY MR. SANTHANAM:

24 Q. Mr. Wu, are you aware of any use for the
25 etherification intermediate other than to make

1 azoxystrobin?

2 A. I'm not sure.

3 Q. Sitting here today, you're not aware of any
4 other use for the etherification intermediate, other
5 than to make azoxystrobin?

6 A. We don't know whether this intermediate is
7 used in any other production, for any other products.

8 Q. When you buy the etherification
9 intermediate from Guoshang, they know that you're
10 buying it to make azoxystrobin; correct?

11 MR. NEUMAN: Objection.

12 A. Yes.

13 BY MR. SANTHANAM:

14 Q. Now, Mr. Wu, are you aware that the
15 etherification process that's set forth, at least the
16 description, in Exhibit 3, was submitted to the
17 United States Environmental Protection Agency?

18 A. Exhibit 3 again?

19 Q. Correct.

20 MR. NEUMAN: Objection. Foundation.

21 A. I don't understand -- I don't know the
22 language in Exhibit 3.

23 BY MR. SANTHANAM:

24 Q. I'm only asking you generally about
25 Exhibit 3. This document is on Tai He letterhead; do

1 of site management. Whenever we receive raw material,
2 for example three types of raw material on the site,
3 the person in charge will tell the worker how much to
4 put for this material, how much that material, and then
5 we recorded how much was put into the production.

6 Q. Mr. Wu, have you heard of something called
7 a batch record before?

8 A. Yes, I heard about it.

9 Q. What is a batch record, to your
10 understanding?

11 A. Well, a batch record only records how much
12 we get at the end of the production, the finished
13 goods, the quantity of finished goods.

14 Q. The document you were just referencing with
15 the ratios and various information provided, is that
16 a batch record?

17 A. No. In our batch record, you can only find
18 information about the finished goods, in its weight,
19 the content, as well as the quality level.

20 Q. And what is the -- what do you call the
21 document that has the ratios and the various quantities
22 that are used in the manufacturing process?

23 A. We call it production record.

24 Q. And does Tai He have production records for
25 azoxystrobin?

1 A. On site, there is such a record.

2 MR. NEUMAN: Sorry, what was the answer?

3 THE INTERPRETER: "On site, there are such
4 records."

5 BY MR. SANTHANAM:

6 Q. Now, in the process -- withdrawn.

7 When you were responding to Mr. Neuman's
8 questions, you had indicated that Mr. Shen and
9 Mr. Mundhra had come to visit Tai He. Do you recall
10 that?

11 A. Yes.

12 Q. There were two visits. The first time it
13 was Mr. Shen; the second time it was both Mr. Shen and
14 Mr. Mundhra. Do you recall that?

15 A. Yes.

16 Q. Mr. Mundhra and Mr. Shen instructed Tai He
17 to have the manufacturing process split up amongst
18 different factories; correct?

19 THE INTERPRETER: Can I please --

20 BY MR. SANTHANAM:

21 Q. Mr. Shen and Mr. Mundhra instructed Tai He
22 to have the manufacturing process split up amongst
23 different -- the different factories; correct?

24 A. No.

25 Q. When they came in the first half of 2014,

1 they wanted to confirm that the manufacturing process
2 had been split up amongst different factories; correct?

3 A. I don't think they had any purpose of their
4 visit. They just went there and had a look. And even
5 if they had a purpose, they didn't tell us and we don't
6 know, and we just told him how the production was going
7 in the factory.

8 Q. Mr. Shen -- strike that.

9 You took Mr. Shen to each of the different
10 factory locations; is that right?

11 A. Not all of them.

12 Q. You took Mr. Shen to at least three
13 different factory locations; correct?

14 A. Yes.

15 Q. Mr. Shen asked you to take him to three
16 different factory locations; isn't that right?

17 A. Yes.

18 Q. And Mr. Shen wanted to confirm that the
19 manufacturing process had at least three different
20 factories; correct?

21 MR. NEUMAN: Objection.

22 A. Yes.

23 BY MR. SANTHANAM:

24 Q. You mentioned the name DABCO during
25 Mr. Neuman's questioning; correct?

1 question?

2 BY MR. SANTHANAM:

3 Q. You understand that Tai He was provided
4 an establishment registration by the United States
5 government for the manufacture of azoxystrobin;
6 correct?

7 A. Yes.

8 Q. Are you saying that it's now a completely
9 different entity that manufactures the Azoxystrobin
10 Technical?

11 A. It is not entirely independent entity for
12 Guangda, because it is entrusted production
13 cooperation. We provide the conditions that are needed
14 for the production of azoxystrobin, and they provide
15 venue, equipment, as well as assistance for the
16 production.

17 (Reporter clarification.)

18 Q. Mr. Wu, I will represent to you that in
19 applying for and obtaining Tai He's establishment
20 registration, the EPA in the United States was told the
21 that location of manufacture was Tai He. Was that
22 wrong?

23 A. I don't know.

24 [REDACTED]

[REDACTED]

1

2

3

MR. SANTHANAM: Can we take a break?

4

MR. NEUMAN: Sure.

5

MR. SANTHANAM: I'm almost done.

6

THE VIDEOGRAPHER: Going off the record at

7

14:08.

8

(2:08 p.m.)

9

(Break taken.)

10

(2:21 p.m.)

11

THE VIDEOGRAPHER: Back on the record at

12

14:21.

13

BY MR. SANTHANAM:

14

Q. Mr. Wu, I'd like you to turn back to

15

Exhibit 1. In Exhibit 1, the manufacturing process for

16

azoxystrobin includes an etherification step and

17

a condensation step; is that right?

18

A. Yes.

19

Q. Did Tai He ever investigate a process for

20

manufacturing azoxystrobin that didn't include

21

an etherification and condensation step?

22

THE INTERPRETER: "Investigate"?

23

MR. SANTHANAM: Correct.

24

THE INTERPRETER: To make sure I understand

25

your question --

1 BY MR. SANTHANAM:

2 Q. Let me repeat the question.

3 Did Tai He ever investigate a manufacturing
4 process for azoxystrobin that did not include
5 an etherification step and a condensation step?

6 A. Investigation on what?

7 Q. Did Tai He consider a manufacturing process
8 that did not include an etherification step followed by
9 a condensation step?

10 A. No.

11 Q. Are you aware of anyone who manufactures
12 azoxystrobin who uses a process -- withdrawn.

13 Are you aware of anyone who manufactures
14 azoxystrobin with a process that does not involve
15 an etherification step followed by a condensation step?

16 A. Can you please explain your question?

17 Q. Are you aware of anyone who manufactures
18 azoxystrobin using a manufacturing process that's
19 different, does not involve a condensation --
20 etherification step followed by a condensation step?

21 A. Without condensation, how can you produce
22 azoxystrobin?

23 Q. You're not aware of anyone who manufactures
24 azoxystrobin without an etherification step followed by
25 a condensation step; correct?

1 A. I'm not aware.

2 MR. SANTHANAM: Mr. Wu, those are all of
3 the questions I have for you. Your counsel --
4 Willowood's counsel may have some additional questions
5 for you, but those are all the questions I have.

6 EXAMINATION BY MR. NEUMAN

7 Q. I have a very few questions for you.

8 Do you recall Syngenta's counsel asking you
9 earlier whether, to your knowledge, the application
10 that was submitted to the United States Environmental
11 Protection Agency to support the registration of
12 azoxystrobin was accurate? Do you recall that
13 question?

14 A. You mean him?

15 Q. Yes. Yes, Mr. Santhanam.

16 Do you recall that question?

17 A. Accurate or not, I can't recall. He did
18 ask me about these two document, whether these two
19 document were provided by us.

20 Q. Have you ever reviewed the application
21 package that was submitted to support the United States
22 registration of azoxystrobin that is produced for
23 Willowood?

24 MR. SANTHANAM: Objection. Leading.

25 (Reporter clarification.)